

**KHEYFITS & MALONEY LLP**

A LIMITED LIABILITY PARTNERSHIP

TEL. (646) 564-3510  
FAX. (212) 203-6445

1140 AVENUE OF THE AMERICAS  
9TH FLOOR  
NEW YORK, NEW YORK 10036

WWW.KHEYFITSMALONEY.COM

MICHAEL JAMES MALONEY  
MMALONEY@KHEYFITSMALONEY.COM

September 4, 2015

**Via Facsimile**

Hon. Robert W. Sweet  
United States Courthouse  
500 Pearl Street  
New York, NY 10007

Re: *LaserDynamics USA, LLC v. Vivid Entertainment, LLC (15-cv-3657); and*  
*LaserDynamics USA, LLC v. Evil Angel Prods., Inc., et al. (15-cv-3658)*

Dear Judge Sweet:

We represent Plaintiff LaserDynamics USA, LLC ("Plaintiff") in the above-referenced and related actions. On July 31, 2015, Plaintiff filed First Amended Complaints in each of these actions. On August 20, 2015, defendants Vivid Entertainment, LLC ("Vivid") and Evil Angel Productions, Inc. ("Evil Angel") and Echo Alpha, Inc. ("Echo Alpha") (collectively referred to as the "Evil Angel Defendants") filed motions to dismiss the First Amended Complaints. On September 3, 2015, Plaintiff filed and served papers in opposition to Vivid's and the Evil Angel Defendants' respective motions.

In the interests of judicial efficiency, the parties have now reached an agreement resolving the pending motions to dismiss without further motion practice. More specifically, Plaintiff, Vivid and the Evil Angel Defendant stipulate as follows:

- (i) Plaintiff hereby dismisses without prejudice its claims in the above-referenced actions for indirect infringement and willfulness;
- (ii) Vivid and the Evil Angel Defendants hereby withdraw their respective motions to dismiss (D.I. 16 in Case No. 15-cv-3657 and D.I. 21 in Case No. 15-cv-3658);
- (iii) On or before September 11, 2015, Plaintiff will file Second Amended Complaints in each of the above-referenced actions, which Second Amended Complaints will assert claims for direct infringement but not claims for indirect infringement, willfulness, or injunctive relief;
- (iv) On or before October 2, 2015, Vivid and the Evil Angel Defendants will answer the Second Amended Complaints; however, Vivid and the Evil Angel Defendants shall not file any motions pursuant to Fed. R. Civ. P. 12

Hon. Robert W. Sweet  
Page 2 of 2  
September 4, 2015

in response to the Second Amended Complaints;

- (v) The parties further agree that each reserves their respective rights to file dispositive motions at an appropriate time later in these proceedings; and
- (vi) Nothing in this agreement shall be deemed an admission or waiver as to the sufficiency of the pleadings filed or merits of the parties' respective arguments and claims on the motions to dismiss.

Accordingly, Plaintiff, Vivid and the Evil Angel Defendants respectfully request that the pending motions to dismiss be withdrawn and that the Court "so order" the foregoing agreement. Vivid and the Evil Angel Defendants join in this request and copies of this correspondence have been simultaneously sent to counsel for those parties.

Respectfully,



Michael James Maloney

cc: Michael Selter, Esq. (via email)  
Jack Hassid, Esq. (via email)  
*Counsel for Defendant Vivid Entertainment, LLC*  
*Counsel for Defendants Evil Angel Productions,*  
*Inc., et al.*

**Michael Maloney**

---

**From:** Michael Maloney  
**Sent:** Friday, September 4, 2015 8:17 PM  
**To:** 12128057925@rcfax.com  
**Subject:** RE: LaserDynamics USA, LLC v. Vivid Entertainment LLC; LaserDynamics USA, LLC v. Evil Angel Prods., Inc., et al.  
**Attachments:** 20150904 - Letter re Motions to Dismiss.pdf

Dear Judge Sweet:

Please see the attached correspondence as to the following related cases:

*LaserDynamics USA, LLC v. Vivid Entertainment, LLC*, Case No. 15-cv-3657; and  
*LaserDynamics USA, LLC v. Evil Angel Prods., Inc., et al.*, Case No. 15-cv-3658

Respectfully,

Michael James Maloney

cc: Jack Hassid, Esq. (via email)  
Michael Selter, Esq. (via email)

---

**Michael James Maloney**  
**Kheyfits & Maloney LLP**  
1140 Avenue of the Americas  
9th Floor  
New York, New York 10036  
Direct Dial: 646-564-3510  
Fax: 212-203-6445  
[www.kheyfitsmaloney.com](http://www.kheyfitsmaloney.com)

--

Pursuant to Treasury Regulations, any U.S. federal tax advice contained in this communication, unless otherwise stated, is not intended and cannot be used for the purpose of avoiding tax-related penalties. The information contained in this E-mail message is privileged, confidential, and may be protected from disclosure; please be aware that any other use, printing, copying, disclosure or dissemination of this communication may be subject to legal restriction or sanction. If you think that you have received this E-mail message in error, please reply to the sender. This E-mail message and any attachments have been scanned for viruses and are believed to be free of any virus or other defect that might affect any computer system into which it is received and opened. However, it is the responsibility of the recipient to ensure that it is virus free and no responsibility is accepted by Kheyfits & Maloney LLP for any loss or damage arising in any way from its use.

**Michael Maloney**

---

**From:** Michael Maloney  
**Sent:** Friday, September 4, 2015 8:18 PM  
**To:** Michael H. Selter; Jack Hassid  
**Cc:** Dmitry Kheyfits  
**Subject:** FW: LaserDynamics USA, LLC v. Vivid Entertainment LLC; LaserDynamics USA, LLC v. Evil Angel Prods., Inc., et al.  
**Attachments:** 20150904 - Letter re Motions to Dismiss.pdf

FYI-

---

**Michael James Maloney**  
**Kheyfits & Maloney LLP**  
1140 Avenue of the Americas  
9th Floor  
New York, New York 10036  
Direct Dial: 646-564-3510  
Fax: 212-203-6445  
[www.kheyfitsmaloney.com](http://www.kheyfitsmaloney.com)

--

---

**From:** Michael Maloney  
**Sent:** Friday, September 4, 2015 8:17 PM  
**To:** 12128057925@rcfax.com  
**Subject:** RE: LaserDynamics USA, LLC v. Vivid Entertainment LLC; LaserDynamics USA, LLC v. Evil Angel Prods., Inc., et al.

Dear Judge Sweet:

Please see the attached correspondence as to the following related cases:

*LaserDynamics USA, LLC v. Vivid Entertainment, LLC*, Case No. 15-cv-3657; and  
*LaserDynamics USA, LLC v. Evil Angel Prods., Inc., et al.*, Case No. 15-cv-3658

Respectfully,

Michael James Maloney

cc: Jack Hassid, Esq. (via email)  
Michael Selter, Esq. (via email)

---

**Michael James Maloney**

**Kheyfits & Maloney LLP**

1140 Avenue of the Americas

9th Floor

New York, New York 10036

Direct Dial: 646-564-3510

Fax: 212-203-6445

[www.kheyfitsmaloney.com](http://www.kheyfitsmaloney.com)

--

Pursuant to Treasury Regulations, any U.S. federal tax advice contained in this communication, unless otherwise stated, is not intended and cannot be used for the purpose of avoiding tax-related penalties. The information contained in this E-mail message is privileged, confidential, and may be protected from disclosure; please be aware that any other use, printing, copying, disclosure or dissemination of this communication may be subject to legal restriction or sanction. If you think that you have received this E-mail message in error, please reply to the sender. This E-mail message and any attachments have been scanned for viruses and are believed to be free of any virus or other defect that might affect any computer system into which it is received and opened. However, it is the responsibility of the recipient to ensure that it is virus free and no responsibility is accepted by Kheyfits & Maloney LLP for any loss or damage arising in any way from its use.

## Michael Maloney

---

**From:** RingCentral <service@ringcentral.com>  
**Sent:** Friday, September 4, 2015 8:20 PM  
**To:** Michael Maloney  
**Subject:** Fax Message Transmission Result to +12128057925 - Sent

### Fax Transmission Results

Here are the results of the 3-page fax you sent from your phone number **(212) 203-5399, Ext. 102**:

Name	Phone Number	Date and Time	Result
	+12128057925	Friday, September 04, 2015 at 08:20 PM	Sent

*Your fax(es) included the following file(s), which were rendered into fax format for transmission:*

File Name	Result
20150904 - Letter re Motions to Dismiss.pdf	Success